

111TH CONGRESS
1ST SESSION

H. R. 3079

To amend the Internal Revenue Code of 1986 to allow loans from simplified employee pension accounts of small business owners for use in the small business.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2009

Ms. SPEIER (for herself, Mr. LEE of New York, Mr. DAVIS of Alabama, and Mr. THOMPSON of California) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow loans from simplified employee pension accounts of small business owners for use in the small business.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Relief
5 Act of 2009”.

1 **SEC. 2. LOANS FROM SIMPLIFIED EMPLOYEE PENSION AC-**
2 **COUNTS OF SMALL BUSINESS OWNERS FOR**
3 **USE IN THE SMALL BUSINESS.**

4 (a) EXEMPTION FROM PROHIBITED TRANSACTION
5 RULES.—Section 4975 of the Internal Revenue Code of
6 1986 (relating to tax on prohibited transactions) is
7 amended by redesignating subsections (h) and (i) as sub-
8 sections (i) and (j), respectively, and by inserting after
9 subsection (g) the following new subsection:

10 “(h) SMALL BUSINESS IMPROVEMENT LOANS FROM
11 SIMPLIFIED EMPLOYEE PENSION ACCOUNTS OF SMALL
12 BUSINESS OWNERS.—

13 “(1) IN GENERAL.—The prohibitions provided
14 in subsection (c) shall not apply to any qualified
15 small business improvement loan to a small business
16 owner from a simplified employee pension of such
17 owner.

18 “(2) QUALIFIED SMALL BUSINESS IMPROVE-
19 MENT LOAN.—For purposes of this subsection, the
20 term ‘qualified small business improvement loan’
21 means a loan from a simplified employee pension the
22 proceeds of which are used in the conduct of the
23 trade or business of the employer with respect to
24 which such simplified employee pension is estab-
25 lished, including—

1 “(A) in the case of a corporation, the ac-
2 quisition by the small business owner of stock
3 in such corporation at its original issue, and

4 “(B) in the case of a partnership, the ac-
5 quisition by the small business owner of a cap-
6 ital or profits interest in such partnership from
7 such partnership.

8 “(3) SMALL BUSINESS OWNER.—For purposes
9 of this subsection, the term ‘small business owner’
10 means, with respect to the employer with respect to
11 which the simplified employee pension is established,
12 any individual who—

13 “(A) in the case of an employer which is
14 an unincorporated trade or business, owns the
15 entire interest in such employer,

16 “(B) in the case of an employer which is
17 a partnership, owns more than 10 percent of ei-
18 ther the capital or the profits interest in such
19 employer (determined before any acquisition de-
20 scribed in paragraph (2)), and

21 “(C) in the case of an employer which is
22 a corporation, owns more than 10 percent of
23 the stock of such employer (determined before
24 any acquisition described in paragraph (2)).

1 “(4) REQUIREMENT THAT LOAN BE REPAYABLE
2 WITHIN 2 YEARS.—Paragraph (1) shall not apply to
3 any loan unless such loan, by its terms, is required
4 to be repaid within 2 years.

5 “(5) REQUIREMENT OF LEVEL AMORTIZA-
6 TION.—Rules similar to the rules of section
7 72(p)(2)(C) shall apply for purposes of this sub-
8 section.

9 “(6) TERMINATION.—A loan shall not be treat-
10 ed as a qualified small business improvement loan if
11 such loan is made after December 31, 2011.”.

12 (b) CONFORMING AMENDMENT.—Subsection (e) of
13 section 408 of such Code (relating to tax treatment of ac-
14 counts and annuities) is amended by adding at the end
15 the following new paragraph:

16 “(6) EXCEPTION FOR SMALL BUSINESS IM-
17 PROVEMENT LOANS FROM SIMPLIFIED EMPLOYEE
18 PENSION ACCOUNTS OF SMALL BUSINESS OWN-
19 ERS.—In the case of a qualified small business im-
20 provement loan (within the meaning of section
21 4975(h)) from a simplified employee pension—

22 “(A) such plan shall not fail to be treated
23 as an individual retirement plan under para-
24 graph (2) or (3) solely because of such loan,
25 and

1 “(B) such loan shall not be treated as a
2 distribution from such plan.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to loans made on or after Sep-
5 tember 1, 2008. For purposes of the preceding sentence,
6 any distribution made before the date of the enactment
7 of this Act which is recharacterized (before the end of the
8 90-day period beginning with such date of enactment) as
9 a loan shall be treated as a loan made on the date of such
10 distribution (and any payments required to be made under
11 such loan before such date of enactment shall be treated
12 as timely made if made before the end of such 90-day pe-
13 riod).

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